

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

CEDRIC NICKERSON
Plaintiff,

v.

RICHARD CRITES, et al.
Defendants.

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Civ. No. CC-08-122

**ORDER OVERRULING OBJECTIONS AND ADOPTING
MEMORANDUM AND RECOMMENDATIONS**

Pending before the Court is the plaintiff's Motion for Leave to File Late Notice of Appeal and for Interlocutory Certification (D.E. 15 and D.E. 17). The Magistrate Judge filed a memorandum and recommendation (D.E. 19). The plaintiff filed objections (D.E. 21).


On June 30, 2008, the plaintiff moved to amend his complaint to add parties. The Magistrate Judge denied this motion. The plaintiff then filed a motion for leave to file a late notice of appeal and a motion for interlocutory certification. The Court will address each motion separately.

Under Federal Rule of Civil Procedure 72(a), a party may file objections to a Magistrate Judge's non-dispositive order. The district judge shall then "consider such objections and shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law." FED. R. CIV. P. 72(a). Therefore, the Court treats the plaintiff's self-styled motion for leave to file a late notice of appeal as an objection to the Magistrate Judge's order denying the

plaintiff's motion to amend his complaint. Having reviewed both the plaintiff's motion and the plaintiff's subsequent objection (D.E. 21), the Court fails to find that the order is either clearly erroneous or contrary to law. Accordingly, the Court overrules the plaintiff's objection.

Under 28 U.S.C. § 1292(b), a district judge may certify an order for interlocutory appeal under certain limited circumstances. In her memorandum, the Magistrate Judge recommended denying the plaintiff's motion for interlocutory certification. Having reviewed the plaintiff's objection (D.E. 21), the Court adopts the recommendation of the Magistrate Judge to the extent that it recommends denying the plaintiff's motion. Accordingly, the Court DENIES the plaintiff's motion for interlocutory certification (D.E. 15 and D.E. 17).

ORDERED this 16 day of March, 2009.


HAYDEN HEAD
CHIEF JUDGE